

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>THOMAS WASHAM,</b>	:	<b>CIVIL ACTION NO. 1:15-CV-2397</b>
	:	
<b>Plaintiff</b>	:	<b>(Chief Judge Conner)</b>
	:	
<b>v.</b>	:	
	:	
<b>LAWRENCE MAHALLY, et al.,</b>	:	
	:	
<b>Defendants</b>	:	

**ORDER**

AND NOW, this 20th day of January, 2016, upon consideration of the report (Doc. 4) of Chief Magistrate Judge Martin C. Carlson, recommending that the court dismiss the complaint (Doc. 1) of *pro se* plaintiff Thomas Washam (“Washam”) as frivolous and for failure to state a viable claim, see 28 U.S.C. §§ 1915(e)(2)(B)(i)-(ii), 1915A(b)(1), and for lack of subject matter jurisdiction, see FED. R. CIV. P. 12(b)(1), wherein Judge Carlson opines that Washam’s pleading, styled as a “writ of release by injunction,” is substantively and procedurally flawed whether construed by the court as a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 or a civil rights complaint pursuant to 42 U.S.C. § 1983, and recommends that dismissal of Washam’s pleading be with prejudice in light of its considerable factual and legal deficiencies, and, following an independent review of the record, the court being in agreement with the magistrate judge that Washam’s pleading (Doc. 1) is subject to dismissal as factually and legally frivolous, and for failure to state a claim for which relief may be granted, and that granting leave to amend would be futile given the

nature of the pleading's deficiencies, see Fletcher-Harlee Corp. v. Pote Concrete Contractors, Inc., 482 F.3d 247, 251 (3d Cir. 2007), and the court noting that Washam has filed an objection (Doc. 8) to the report, see FED. R. CIV. P. 72(b)(2), wherein he reiterates in shorter form many of the fruitless allegations of his original pleading, (see Doc. 8), and following a *de novo* review of the contested portions of the report, see Behar v. Pa. Dep't of Trans., 791 F. Supp. 2d 383, 389 (M.D. Pa. 2011) (citing 28 U.S.C. § 636(b)(1)(C); Sample v. Diecks, 885 F.2d 1099, 1106 n.3 (3d Cir. 1989)), and applying a clear error standard of review to the uncontested portions, see Cruz v. Chater, 990 F. Supp. 375, 376-78 (M.D. Pa. 1999), the court finding Judge Carlson's analysis to be thorough, well-reasoned, and fully supported by the record, and further finding Washam's objection to be entirely without merit, it is hereby ORDERED that:

1. The report (Doc. 4) of Chief Magistrate Judge Carlson is ADOPTED.
2. Plaintiff's complaint (Doc. 1) is DISMISSED with prejudice.
3. The Clerk of Court is directed to CLOSE this case.
4. Any appeal from this order is deemed to be frivolous and not taken in good faith. See 28 U.S.C. § 1915(a)(3).

/S/ CHRISTOPHER C. CONNER  
Christopher C. Conner, Chief Judge  
United States District Court  
Middle District of Pennsylvania